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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,895	03/02/2004	Mikhail Lotvin		2673
33283 7590 12/11/2008 RICHARD MICHAEL NEMES 754 WEST BROADWAY WOODMERE, NY 11598-2948				
			EXAMINER LEVINE, ADAM L	
			ART UNIT 3625	PAPER NUMBER
			MAIL DATE 12/11/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/790,895

Applicant(s)

LOTVIN ET AL.

Examiner

ADAM LEVINE

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-15, 33-35, 37, 38, 40, 41, 47-50 and 52-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-15, 33-35, 37, 38, 40, 41, 47-50 and 52-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

Applicants' amendments and remarks filed September 9, 2008, are responsive to the office action mailed April 11, 2008. Claims 13-15, 33-35, 37-38, 40-41, and 47-54 were previously pending. Claims 13, 33, 47, and 52-53 are currently amended. Claim 51 has been cancelled and claims 55-56 are new. Claims 13-15, 33-35, 37-38, 40-41, 47-50, and 52-56 are pending and will be considered in this office action.

Response to Arguments

Pertaining to rejection under 35 USC 112, first paragraph, in the previous office action

Applicants' arguments, see remarks filed September 9, 2008, with respect to claims 48 and 54, have been fully considered and are persuasive. The rejection of claims 48 and 54 under 35 USC 112, first paragraph, has been withdrawn. It is noted that applicants' in their reply have also admitted that the features in claims 48 and 54 are old and well known. See remarks, page 6.

Pertaining to rejection under 35 USC 102(e) in the previous office action

Applicant must discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references. Applicant's arguments

do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

Applicant's general comments have been considered in any case but are moot in view of the new ground(s) of rejection.

The examiner cites particular pages and paragraphs or columns and line numbers in the references as applied to the claims below for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the claims, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

- 1. Claims 13-15, 33-35, 37-38, 40-41, 47-50, and 52-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shaffer et al. (Paper # 20080408; US**

Patent No. 6,434,222 B1 ("Shaffer222") in view of Shaffer et al. (Paper # 20070703; US Patent No. 6,477,374 B1) ("Shaffer374").

Shaffer222 teaches a computer-implemented method for automated multimedia messaging system information updating. For example, Shaffer222 discloses a method comprising using an Internet browser (see at least column 3 lines 58-65). Shaffer222 further discloses:

- enabling an end user to specify telephone service logic: comprising specification for at least voice mail (see at least figs. 3, 54; column 4 lines 1-22, column 5 lines 26-43); call waiting comprising specification of relative priority of caller ID's (see at least); enabling the end user to use voice input to specify the telephone service logic (see at least column 3 lines 10-27. Please note: as indicated above, applicants have also admitted that this feature is old and well known. See remarks filed September 9, 2008, page 6);
- electronically providing information representing the service logic: to at least one computer controlling telephone service so as to enable the at least one computer controlling telephone service to control telephone service in accordance with the service logic (see at least column 7 lines 14-17).

Shaffer222 discloses all of the above as noted and teaches a) allowing the user to create and record one or more default configurations, b) monitoring usage of default and predetermined settings, and c) routing incoming calls based on when they are received. Shaffer222 does not however explicitly disclose different outgoing messages selected based on time of an incoming call, call waiting comprising specification of

relative priority of caller ID's, and use of different carriers during different time periods. Shaffer374 also teaches a) allowing the user to create and record one or more default configurations, b) monitoring usage of default and predetermined settings, and c) routing incoming calls based on when they are received, furthermore Shaffer374 also discloses:

- different outgoing messages selected based on time of an incoming call: (see at least abstract, figs. 10, 12, 15; column 3 lines 24-55, column 8 lines 13-25, column 12 line 35 – column 13 line 4);
- call waiting comprising specification of relative priority of caller ID's: (see at least abstract, figs. 16, 19-20; column 3 lines 43-54, column 12 lines 10-30, column 15 lines 2-14, 40-59; column 16 lines 1-15. Please note: although the prior art discloses the following subject matter, the phrase "so as to determine... whether..." causes a bypass of the information following "so as to determine," because it is unclear whether applicants intend to claim a specific functional step or system element. Accordingly, once the positively recited parts of the claim are satisfied, the system as a whole is satisfied -- regardless of whether or not the reasons for including them are the same or are conditionally present under other hypothetical scenarios.);
- use of different carriers during different time periods: (see at least abstract, column 3 lines 8-54, column 7 line 58 – column 8 line 45).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method of Shaffer222 to include different outgoing

messages selected based on time of an incoming call, call waiting comprising specification of relative priority of caller ID's, and use of different carriers during different time periods as taught by Shaffer374 in order to further exploit the already existing technology by increasing its utility to its users thereby promoting greater use of the method in commerce.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ADAM LEVINE whose telephone number is (571)272-8122. The examiner can normally be reached on M-F, 8:30-5:00 Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Smith can be reached on 571.272.6763. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeffrey A. Smith/
Supervisory Patent Examiner, Art
Unit 3625

Adam Levine
Patent Examiner
December 8, 2008